

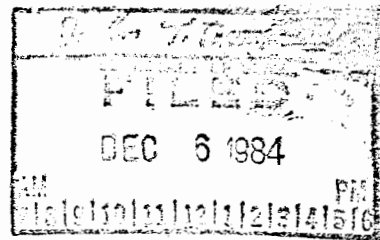
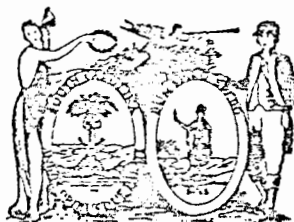
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No. 8439

Executive Department

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STATE DOCUMENTS



State of South Carolina

EXECUTIVE ORDER NO. 84-39

WHEREAS, the United States Congress through passage of the Tax Reform Act of 1984, Public Law 98-369, (the Act) has imposed a volume limitation on the number of tax exempt private activity bonds that can be issued in each State; and

WHEREAS, the Governor of each state is given interim authority by the Act to proclaim a different formula than that provided in the Act for allocating the state's volume limitation among its governmental units which have authority to issue private activity bonds; and

WHEREAS, the Act provides that the Governor's interim authority terminates, inter alia, on the effective date of any State legislation with respect to the allocation of the State ceiling; and

WHEREAS, by Section 39, Part II, of Act Number 512 of the 1984 Acts and Joint Resolutions, the South Carolina General Assembly provided that the State Budget and Control Board and Joint Bond Review Committee should develop an alternate plan for allocating the State's volume limitation on the issuance of tax exempt private activity bonds; and

WHEREAS, on November 14, 1984, regulations promulgated by the Budget and Control Board with the approval of the Joint Bond Review Committee were put into effect on an emergency basis; and

WHEREAS, I have been requested to issue an Executive Order which sets forth the same allocation plan as that provided in the regulations of the State Budget and Control Board to insure the validity of those regulations.

NOW, THEREFORE, pursuant to the authority vested in me as Governor of the State of South Carolina by the Constitution and laws of this State and by

Public Law 98-369, I hereby proclaim the following formula for allocating the State ceiling on the issuance on tax exempt private activity bonds:

SECTION 1: Calculation and Certification of State Ceiling

The State Ceiling, as established in the Deficit Reduction Act of 1984 (the Act), shall be calculated by the Secretary of the Budget and Control Board based upon the provisions of the Act and certified to by him as soon as practicable after the estimates of the population of the State of South Carolina are published by the Bureau of the Census and in no event later than February 1 of each calendar year; provided, that he shall calculate and certify the State Ceiling for the calendar year 1984 no later than fifteen (15) days following the issuance of these regulations.

SECTION 2: Allocation of Bond Limit Amounts

(a) The private activity bond limit amounts for all issuing authorities will be allocated by the Budget and Control Board in response to Authorized Requests (as described in Section 4 below) by such issuing authorities. (b) The aggregate private activity bond limit amount for all South Carolina State government agencies and for all other South Carolina general purpose governmental units is allocated initially to the State for further allocation within the limits prescribed herein. (c) Except as is provided in Section 5 hereof, all allocations from the Local Pool or from the State Agency and Exempt Facilities Pool (described in Section 3 below) by the Budget and Control Board will be made on a first-come, first-served basis, to be determined by the date and time sequence in which complete Authorized Requests are received by the Board's Secretary.

SECTION 3: Private Activity Bond Limits

(a) The private activity bond limit for all agencies of the State of South Carolina now or hereafter authorized to issue private activity bonds as defined in the Act and for issuing authorities other than State Government agencies for issues of such bonds for "exempt facilities" (which term, as used herein, shall mean facilities described in Section 103(b)(4) of the Internal

Revenue Code of 1954, as amended, including, in particular, pollution control facilities) to be known as the "State Agency and Exempt Facilities Pool," shall be forty percent (40%) of the State Ceiling (1) less any amount reallocated by the Budget and Control Board to the local pool (described in the succeeding paragraph); or (2) plus any amount reallocated by the Board from the local pool. (b) The private activity bond limit for all issuing authorities within the State of South Carolina other than State Government agencies described in the preceding paragraph now or hereafter authorized to issue private activity bonds as defined in the Act, excluding issues of such bonds for "exempt facilities" by such issuing authorities, to be known as the "Local Pool," shall be sixty per cent (60%) of the State Ceiling (1) plus any amount reallocated by the Budget and Control Board from the State Agency and Exempt Facilities Pool; or (2) less any amount reallocated by the Board to the State Agency and Exempt Facilities Pool. (c) The Budget and Control Board with review and comment by the Joint Bond Review Committee may at any time it determines that either the basic Local Pool or the basic State Agency and Exempt Facilities Pool is exhausted reallocate any unused amounts from one pool to the other.

SECTION 4: Authorized Requests for an Allocation

(a) For purposes of Section 2, an Authorized Request shall mean, for any bonds issued by issuing authorities other than State Agencies, a request contained in a petition to the Budget and Control Board that a portion of the State Ceiling be allocated to the bonds for which the petition has been filed, accompanied by a copy of the Inducement Contract, Inducement Resolution, or comparable preliminary approval on such bonds entered into by such issuing authority. A copy of such Authorized Request shall be forwarded promptly by the Budget and Control Board to the Joint Bond Review Committee for information. (b) For private activity bonds proposed for issuance by any State Agency, an Authorized Request shall mean a petition filed with the Budget and Control Board not sooner than the adoption of a bond ordinance or bond resolution authorizing the issuance of

such bonds. A copy of such Authorized Request shall be forwarded promptly by the Budget and Control Board to the Joint Bond Review Committee for information. (c) Each Authorized Request must demonstrate that the allocation amount requested constitutes all of the private activity bond financing contemplated at the time for the project and any other facilities located at or used as a part of an integrated operation with the project.

SECTION 5: Limitation on Board Allocations in Response to Authorized Requests

The Budget and Control Board with review and comment by the Joint Bond Review Committee may disapprove, reduce or defer any Authorized Request. In the event it becomes necessary to exercise this authority due to lack of funds in either Pool, the Board and the Committee shall take into account the public interest in promoting economic growth and job creation.

SECTION 6: Filing of Certificate

(a) Prior to the issuance of any private activity Bond for which a portion of the State Ceiling has been allocated by the Budget and Control Board pursuant to Sections 2, 3, 4, and 5 hereof, the chairman or other official of the issuing authority shall certify to the Secretary of the Budget and Control Board the exact amount of Bonds being issued. A copy of the Internal Revenue Service Form 8038 on the Bond issue being certified filed or to be filed with the Internal Revenue Service may be used to meet this certification requirement. (b) In response, the Secretary of the Budget and Control Board shall determine that such Bonds when issued and combined with the total amount of such Bonds certified to the Board Secretary by issuing authorities as having been issued or to be issued previously in the calendar year will not exceed the State Ceiling and, if so, the Secretary shall certify in writing to that effect to such officer. Except under extraordinary circumstances, the Secretary will make such determination and execute such certificate within two (2) business days following the date he

received the bond issue amount certificate of the issuing authority.

(c) The failure by any issuing authority to file the bond issue amount certificate shall cancel the allocation.

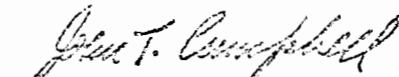
SECTION 7: Lapse of Filing

Whenever any filing as provided in Section 6 hereof precedes the date of issue of the Bonds by more than ten (10) business days, such filing shall be void and a new filing shall be required prior to the issuance of the bonds.

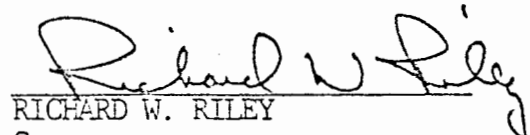
SECTION 8: Time Limits on Allocations

(a) Any allocation of the State Ceiling approved by the Budget and Control Board before October 1 shall be valid only for the calendar year in which it was approved, unless specified to the contrary in the Board Secretary's allocation certification required by Section 6 hereof. (b) Board approval of allocations on and after October 1 must specify the calendar year in which the allocation is valid and this information must be indicated in the certificate of the Board's Secretary. (c) Unless specified to the contrary, each allocation shall expire automatically if the bonds for which such allocation has been approved are not issued within ninety (90) days following the approval by the Budget and Control Board; provided that the entity which filed the Authorized Request must advise the Board's Secretary of the status of the issuance within sixty (60) days and again within seventy-five (75) days from the Board's approval if the Internal Revenue Service Form 8038 has not been filed before those points in time.

ATTEST:


JOHN T. CAMPBELL
Secretary of State

GIVEN UNDER MY HAND AND THE
GREAT SEAL OF THE STATE OF
SOUTH CAROLINA, AT COLUMBIA,
SOUTH CAROLINA, THIS 5TH
DAY OF December, 1984.


RICHARD W. RILEY
Governor